IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1899 OF 2007

Mrs. Vidyaben Amin & Co..... Petitioner

versus

Life Insurance Corporation
of India and others ..... Respondent.

Mr. R.M.Jaykar with Ms. Dimple Mehta i/b. M/s. Jayakars for the petitioner.
Ms. Manisha Patil i/b. M/s. Bhave & Co. for the espondent no.1.
Mr. Kiran Kandpile & Mr. Prajapati for Respondent no.3.

CORAM; A.P. DESHPANDE, J.
DATED; 04TH AUGUST, 2007

P.C.;

1. The present petitioner by moving an application before the Estate Officer sought directions against the present respondent to review the case of the petitioner as per the guide-lines issued by the Ministry of Urban Development dated 30-5-2002. A further prayer is made to direct the respondent herein to lead evidence first. By the impugned order the Estate Officer has rejected the request of the present petitioner to call upon the respondent to lead evidence first in point of time and I am informed that one of the witnesses of the petitioner has already been examined viz. the petitioner no.1. As one of the witness of the petitioner is already examined, I

do not propose to interfere with the order passed by the Estate Officer calling upon the petitioner to lead evidence first. Perusal of the impugned order passed by the Estate Officer clearly reveals that the direction sought by the petitioner for consideration of their case under the guidelines dated 30-5-2002, has not been addressed at all. The point raised by the petitioner before the Estate Officer about consideration of their case under the guidelines dated 30-5-2002 has to be addressed, considered and adjudicated upon by the Estate Officer. The learned counsel for the petitioner submits that the Estate officer be directed to frame a preliminary issue touching the said contention with a view to avoid multiplicity of proceedings.

2. Per contra the learned counsel for the respondent opposed the consideration of the said issue as a preliminary issue. However, she candidly submitted that the Estate Officer can be directed to decide the consideration of the prayers under the guidelines dated 30-5-2002 at the time of final decision of the case. Having regard to the fact that the proceedings are pending for last about 15 years, I deem it appropriate to direct the Estate Officer to consider the petitioner’s contention about their case being covered by the guidelines dated 30-5-2002 and deal

with and adjudicate the same at the time of passing of final order. The writ petition to the above extent is partly allowed. The challenge to the order passed by the Estate Officer dated 9-1-2007 which goes to direct the petitioner to lead evidence first, the petition stands rejected. The petitioners are directed to lead further evidence and produce other witnesses if any, before the Estate Officer.

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